

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 THEREL SCOTT,

Case No. 2:20-cv-00114-GMN-BNW

4 Plaintiff

ORDER

5 v.

6 NEVADA DEPARTMENT
7 OF CORRECTIONS, et al.,

Defendants

8
9 **I. DISCUSSION**

10 This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983
11 by a former state prisoner. On March 8, 2021, this Court issued an order directing Plaintiff
12 to file his updated address and a non-prisoner application to proceed *in forma pauperis*
13 with this Court within thirty (30) days. (ECF No. 3.) The thirty-day period has now expired,
14 and Plaintiff has not filed his updated address, filed a non-prisoner application to proceed
15 *in forma pauperis*, or otherwise responded to the Court's order.

16 District courts have the inherent power to control their dockets and "[i]n the
17 exercise of that power, they may impose sanctions including, where appropriate . . .
18 dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
19 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure
20 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
21 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for
22 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.
23 1992) (affirming dismissal for failure to comply with an order requiring amendment of
24 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal
25 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of
26 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming
27 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,

28 ///

1 424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with
2 local rules).

3 In determining whether to dismiss an action for lack of prosecution, failure to obey
4 a court order, or failure to comply with local rules, the court must consider several factors:
5 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
6 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
7 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
8 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
9 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

10 Here, the Court finds that the first two factors, the public's interest in expeditiously
11 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
12 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
13 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
14 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
15 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
16 disposition of cases on their merits—is greatly outweighed by the factors in favor of
17 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
18 the court's order will result in dismissal satisfies the "consideration of alternatives"
19 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
20 F.2d at 1424. The Court's order requiring Plaintiff to file his updated address and file a
21 non-prisoner application to proceed *in forma pauperis* with the Court within thirty (30)
22 days expressly stated: "IT IS FURTHER ORDERED that, if Plaintiff fails to timely comply
23 with this order, this case will be subject to dismissal without prejudice." (ECF No. 3 at 2.)
24 Thus, Plaintiff had adequate warning that dismissal would result from his noncompliance
25 with the Court's order to file his updated address and a non-prisoner application to
26 proceed *in forma pauperis* within thirty (30) days.

27 ///

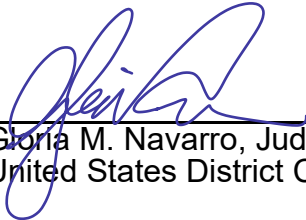
28 ///

1 **II. CONCLUSION**

2 It is therefore ordered that this action is dismissed without prejudice based on
3 Plaintiff's failure to file an updated address and a non-prisoner application to proceed *in*
4 *forma pauperis* in compliance with this Court's March 8, 2021, order.

5 It is further ordered that the Clerk of Court will enter judgment accordingly.

6
7 DATED THIS 7 day of May 2021.

8 
9 _____
10 Gloria M. Navarro, Judge
11 United States District Court
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28